

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

ALLISON MELISSA SCHUESSLER

Respondent .

Case No. 2012-198

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 20, 2012..

IT IS SO ORDERED July 20, 2012.



Erin Niemela
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2078
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **ALLISON MELISSA SCHUESSLER**
14 **310 Lake Street #304**
Huntington Beach, CA 92648

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16 Respondent.

Case No. 2012-198

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
22 Registered Nursing. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Sherry L.
24 Ledakis, Deputy Attorney General.

25 2. Allison Melissa Schuessler (Respondent) is representing herself in this proceeding
26 and has chosen not to exercise her right to be represented by counsel.

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3. On or about January 18, 2011, Respondent filed an application dated January 12, 2011, with the Board of Registered Nursing to obtain a Registered Nurse License.

JURISDICTION

4. Statement of Issues No. 2012-198 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on October 11, 2011. A copy of Statement of Issues No. 2012-198 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 2012-198. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2012-198.

9. Respondent agrees that her application for a Registered Nurse License is subject to denial and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 DISCIPLINARY ORDER

5 IT IS HEREBY ORDERED

6 1. The application of Respondent Allison Melissa Schuessler for licensure is hereby
7 granted. Upon successful completion of the licensure examination and all other licensing
8 requirements, a license shall be issued to Respondent. Said license shall immediately be revoked,
9 the order of revocation stayed and Respondent placed on probation for a period of two (2) years
10 on the following conditions:

11 **Severability Clause.** Each condition of probation contained herein is a separate and
12 distinct condition. If any condition of this Order, or any application thereof, is declared
13 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
14 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
15 and enforceable to the fullest extent permitted by law.

16 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
17 detailed account of any and all violations of law shall be reported by Respondent to the Board in
18 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
19 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
20 45 days of the effective date of the decision, unless previously submitted as part of the licensure
21 application process.

22 **Criminal Court Orders:** If Respondent is under criminal court orders, including
23 probation or parole, and the order is violated, this shall be deemed a violation of these probation
24 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

25 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
26 the conditions of the Probation Program established by the Board and cooperate with
27 representatives of the Board in its monitoring and investigation of the Respondent's compliance
28 with the Board's Probation Program. Respondent shall inform the Board in writing within no

1 more than 15 days of any address change and shall at all times maintain an active, current license
2 status with the Board, including during any period of suspension.

3 Upon successful completion of probation, Respondent's license shall be fully restored.

4 3. **Report in Person.** Respondent, during the period of probation, shall appear in
5 person at interviews/meetings as directed by the Board or its designated representatives.

6 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
7 practice as a registered nurse outside of California shall not apply toward a reduction of this
8 probation time period. Respondent's probation is tolled, if and when she resides outside of
9 California. Respondent must provide written notice to the Board within 15 days of any change of
10 residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

12 Respondent shall provide a list of all states and territories where she has ever been licensed
13 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
14 information regarding the status of each license and any changes in such license status during the
15 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
16 license during the term of probation.

17 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
18 or cause to be submitted such written reports/declarations and verification of actions under
19 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
20 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
21 Respondent shall immediately execute all release of information forms as may be required by the
22 Board or its representatives.

23 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
24 state and territory in which she has a registered nurse license.

25 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
26 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
27 6 consecutive months or as determined by the Board.

28 For purposes of compliance with the section, "engage in the practice of registered nursing"

1 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
2 non-direct patient care position that requires licensure as a registered nurse.

3 The Board may require that advanced practice nurses engage in advanced practice nursing
4 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

5 If Respondent has not complied with this condition during the probationary term, and
6 Respondent has presented sufficient documentation of her good faith efforts to comply with this
7 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
8 extension of Respondent's probation period up to one year without further hearing in order to
9 comply with this condition. During the one year extension, all original conditions of probation
10 shall apply.

11 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain
12 prior approval from the Board before commencing or continuing any employment, paid or
13 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
14 performance evaluations and other employment related reports as a registered nurse upon request
15 of the Board.

16 Respondent shall provide a copy of this Decision to her employer and immediate
17 supervisors prior to commencement of any nursing or other health care related employment.

18 In addition to the above, Respondent shall notify the Board in writing within seventy-two
19 (72) hours after she obtains any nursing or other health care related employment. Respondent
20 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
21 separated, regardless of cause, from any nursing, or other health care related employment with a
22 full explanation of the circumstances surrounding the termination or separation.

23 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
24 Respondent's level of supervision and/or collaboration before commencing or continuing any
25 employment as a registered nurse, or education and training that includes patient care.

26 Respondent shall practice only under the direct supervision of a registered nurse in good
27 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods

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1 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
2 approved.

3 Respondent's level of supervision and/or collaboration may include, but is not limited to the
4 following:

5 (a) Maximum - The individual providing supervision and/or collaboration is present in
6 the patient care area or in any other work setting at all times.

7 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
8 care unit or in any other work setting at least half the hours Respondent works.

9 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
10 person communication with Respondent at least twice during each shift worked.

11 (d) Home Health Care.- If Respondent is approved to work in the home health care
12 setting, the individual providing supervision and/or collaboration shall have person-to-person
13 communication with Respondent as required by the Board each work day. Respondent shall
14 maintain telephone or other telecommunication contact with the individual providing supervision
15 and/or collaboration as required by the Board during each work day. The individual providing
16 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
17 patients' homes visited by Respondent with or without Respondent present.

18 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
19 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
20 or for an in-house nursing pool.

21 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
22 registered nursing supervision and other protections for home visits have been approved by the
23 Board. Respondent shall not work in any other registered nursing occupation where home visits
24 are required.

25 Respondent shall not work in any health care setting as a supervisor of registered nurses.
26 The Board may additionally restrict Respondent from supervising licensed vocational nurses
27 and/or unlicensed assistive personnel on a case-by-case basis.

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1 Respondent shall not work as a faculty member in an approved school of nursing or as an
2 instructor in a Board approved continuing education program.

3 Respondent shall work only on a regularly assigned, identified and predetermined
4 worksite(s) and shall not work in a float capacity.

5 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
6 request documentation to determine whether there should be restrictions on the hours of work.

7 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
8 successfully complete a course(s) relevant to the practice of registered nursing no later than six
9 months prior to the end of her probationary term.

10 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
11 Respondent shall submit to the Board the original transcripts or certificates of completion for the
12 above required course(s). The Board shall return the original documents to Respondent after
13 photocopying them for its records.

14 11. **Violation of Probation.** If Respondent violates the conditions of her probation, the
15 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
16 and impose the stayed discipline (revocation/suspension) of Respondent's license.

17 If during the period of probation, an accusation or petition to revoke probation has been
18 filed against Respondent's license or the Attorney General's Office has been requested to prepare
19 an accusation or petition to revoke probation against Respondent's license, the probationary
20 period shall automatically be extended and shall not expire until the accusation or petition has
21 been acted upon by the Board.

22 12. **License Surrender.** During Respondent's term of probation, if she ceases practicing
23 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
24 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
25 Respondent's request and to exercise its discretion whether to grant the request, or to take any
26 other action deemed appropriate and reasonable under the circumstances, without further hearing.
27 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
28 subject to the conditions of probation.

1 Surrender of Respondent's license shall be considered a disciplinary action and shall
2 become a part of Respondent's license history with the Board. A registered nurse whose license
3 has been surrendered may petition the Board for reinstatement no sooner than the following
4 minimum periods from the effective date of the disciplinary decision:

5 (1) Two years for reinstatement of a license that was surrendered for any reason other
6 than a mental or physical illness; or

7 (2) One year for a license surrendered for a mental or physical illness.

8 13. **Physical Examination.** Within 45 days of the effective date of this Decision,
9 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
10 assistant, who is approved by the Board before the assessment is performed, submit an
11 assessment of the Respondent's physical condition and capability to perform the duties of a
12 registered nurse, including a determination as set forth below in the condition titled "Rule-Out
13 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
14 the Board. If medically determined, a recommended treatment program will be instituted and
15 followed by the Respondent with the physician, nurse practitioner, or physician assistant
16 providing written reports to the Board on forms provided by the Board.

17 If Respondent is determined to be unable to practice safely as a registered nurse, the
18 licensed physician, nurse practitioner, or physician assistant making this determination shall
19 immediately notify the Board and Respondent by telephone, and the Board shall request that the
20 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
21 immediately cease practice and shall not resume practice until notified by the Board. During this
22 period of suspension, Respondent shall not engage in any practice for which a license issued by
23 the Board is required until the Board has notified Respondent that a medical determination
24 permits Respondent to resume practice. This period of suspension will not apply to the reduction
25 of this probationary time period.

26 If Respondent fails to have the above assessment submitted to the Board within the 45-day
27 requirement, Respondent shall immediately cease practice and shall not resume practice until
28 notified by the Board. This period of suspension will not apply to the reduction of this

1 probationary time period. The Board may waive or postpone this suspension only if significant,
2 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
3 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
4 Only one such waiver or extension may be permitted.

5 14. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
6 of this Decision, have a mental health examination including psychological testing as appropriate
7 to determine her capability to perform the duties of a registered nurse, including a determination
8 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The
9 examination will be performed by a psychiatrist, psychologist or other licensed mental health
10 practitioner approved by the Board. The examining mental health practitioner will submit a
11 written report of that assessment and recommendations to the Board. All costs are the
12 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
13 result of the mental health examination will be instituted and followed by Respondent.

14 If Respondent is determined to be unable to practice safely as a registered nurse, the
15 licensed mental health care practitioner making this determination shall immediately notify the
16 Board and Respondent by telephone, and the Board shall request that the Attorney General's
17 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
18 practice and may not resume practice until notified by the Board. During this period of
19 suspension, Respondent shall not engage in any practice for which a license issued by the Board
20 is required, until the Board has notified Respondent that a mental health determination permits
21 Respondent to resume practice. This period of suspension will not apply to the reduction of this
22 probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board within the 45-day
24 requirement, Respondent shall immediately cease practice and shall not resume practice until
25 notified by the Board. This period of suspension will not apply to the reduction of this
26 probationary time period. The Board may waive or postpone this suspension only if significant,
27 documented evidence of mitigation is provided. Such evidence must establish good faith efforts

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1 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

2 Only one such waiver or extension may be permitted.

3 15. **Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
4 and/or mental health examination determines that the respondent is dependent upon drugs or
5 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
6 dependence in remission), that might reasonably affect the safe practice of nursing, then the
7 respondent must further comply with the following additional terms and conditions of probation:

8 A. **Participate in Treatment/Rehabilitation Program for Chemical**

9 **Dependence.** Respondent, at her expense, shall successfully complete during the
10 probationary period or shall have successfully completed prior to commencement
11 of probation a Board-approved treatment/rehabilitation program of at least six
12 months duration. As required, reports shall be submitted by the program on forms
13 provided by the Board. If Respondent has not completed a Board-approved
14 treatment/rehabilitation program prior to commencement of probation,
15 Respondent, within 45 days from the effective date of the decision, shall be
16 enrolled in a program. If a program is not successfully completed within the first
17 nine months of probation, the Board shall consider Respondent in violation of
18 probation.

19 Based on Board recommendation, each week Respondent shall be required
20 to attend at least one, but no more than five 12-step recovery meetings or
21 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
22 support group as approved and directed by the Board. If a nurse support group is
23 not available, an additional 12-step meeting or equivalent shall be added.
24 Respondent shall submit dated and signed documentation confirming such
25 attendance to the Board during the entire period of probation. Respondent shall
26 continue with the recovery plan recommended by the treatment/rehabilitation
27 program or a licensed mental health examiner and/or other ongoing recovery
28 groups.

1 B. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
2 shall completely abstain from the possession, injection or consumption by any
3 route of all controlled substances and all psychotropic (mood altering) drugs,
4 including alcohol, except when the same are ordered by a health care professional
5 legally authorized to do so as part of documented medical treatment. Respondent
6 shall have sent to the Board, in writing and within fourteen (14) days, by the
7 prescribing health professional, a report identifying the medication, dosage, the
8 date the medication was prescribed, the Respondent's prognosis, the date the
9 medication will no longer be required, and the effect on the recovery plan, if
10 appropriate.

11 Respondent shall identify for the Board a single physician, nurse
12 practitioner or physician assistant who shall be aware of Respondent's history of
13 substance abuse and will coordinate and monitor any prescriptions for Respondent
14 for dangerous drugs, controlled substances or mood-altering drugs. The
15 coordinating physician, nurse practitioner, or physician assistant shall report to the
16 Board on a quarterly basis Respondent's compliance with this condition. If any
17 substances considered addictive have been prescribed, the report shall identify a
18 program for the time limited use of any such substances.

19 The Board may require the single coordinating physician, nurse
20 practitioner, or physician assistant to be a specialist in addictive medicine, or to
21 consult with a specialist in addictive medicine.

22 C. **Submit to Tests and Samples.** Respondent, at her expense, shall
23 participate in a random, biological fluid testing or a drug screening program which
24 the Board approves. The length of time and frequency will be subject to approval
25 by the Board. Respondent is responsible for keeping the Board informed of
26 Respondent's current telephone number at all times. Respondent shall also ensure
27 that messages may be left at the telephone number when she is not available and
28 ensure that reports are submitted directly by the testing agency to the Board, as

1 directed. Any confirmed positive finding shall be reported immediately to the
2 Board by the program and Respondent shall be considered in violation of
3 probation.

4 In addition, Respondent, at any time during the period of probation, shall
5 fully cooperate with the Board or any of its representatives, and shall, when
6 requested, submit to such tests and samples as the Board or its representatives may
7 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
8 controlled substances.

9 If Respondent has a positive drug screen for any substance not legally
10 authorized and not reported to the coordinating physician, nurse practitioner, or
11 physician assistant, and the Board files a petition to revoke probation or an
12 accusation, the Board may suspend Respondent from practice pending the final
13 decision on the petition to revoke probation or the accusation. This period of
14 suspension will not apply to the reduction of this probationary time period.

15 If Respondent fails to participate in a random, biological fluid testing or
16 drug screening program within the specified time frame, Respondent shall
17 immediately cease practice and shall not resume practice until notified by the
18 Board. After taking into account documented evidence of mitigation, if the Board
19 files a petition to revoke probation or an accusation, the Board may suspend
20 Respondent from practice pending the final decision on the petition to revoke
21 probation or the accusation. This period of suspension will not apply to the
22 reduction of this probationary time period.

23 D. Therapy or Counseling Program. Respondent, at her expense, shall
24 participate in an on-going counseling program until such time as the Board
25 releases her from this requirement and only upon the recommendation of the
26 counselor. Written progress reports from the counselor will be required at various
27 intervals.

28 ///

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 3/3/2012

Allison Schuessler
ALLISON MELISSA SCHUESSLER
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 3/8/2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Sherry L. Ledakis
SHERRY L. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 2012-198

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2078
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No. **2012-198**

13 **ALLISON MELISSA SCHUESSLER**
14 **310 Lake Street #304**
Huntington Beach, CA 92648

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about January 18, 2011, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Allison Melissa
24 Schuessler (Respondent). On or about January 12, 2011, Allison Melissa Schuessler certified
25 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on May 3, 2011.

27 ///

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made.

6

7 7. Section 482 of the Code states:

8 Each board under the provisions of this code shall develop criteria to evaluate
9 the rehabilitation of a person when:

10 (a) Considering the denial of a license by the board under Section 480; or

11 (b) Considering suspension or revocation of a license under Section 490.

12 Each board shall take into account all competent evidence of rehabilitation
13 furnished by the applicant or licensee.

14 8. Section 493 of the Code states:

15 Notwithstanding any other provision of law, in a proceeding conducted by a
16 board within the department pursuant to law to deny an application for a license or to
17 suspend or revoke a license or otherwise take disciplinary action against a person who
18 holds a license, upon the ground that the applicant or the licensee has been convicted
19 of a crime substantially related to the qualifications, functions, and duties of the
20 licensee in question, the record of conviction of the crime shall be conclusive
21 evidence of the fact that the conviction occurred, but only of that fact, and the board
22 may inquire into the circumstances surrounding the commission of the crime in order
23 to fix the degree of discipline or to determine if the conviction is substantially related
24 to the qualifications, functions, and duties of the licensee in question.

25 As used in this section, "license" includes "certificate," "permit," "authority,"
26 and "registration."

27 9. Section 2761 of the Code states:

28 The board may take disciplinary action against a certified or licensed nurse or
deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the
following:

....

(f) Conviction of a felony or of any offense substantially related to the
qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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1 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
2 under consideration as grounds for denial which also could be considered as grounds
3 for denial under Section 480 of the code.

4 (3) The time that has elapsed since commission of the act(s) or crime(s)
5 referred to in subdivision (1) or (2).

6 (4) The extent to which the applicant has complied with any terms of parole,
7 probation, restitution, or any other sanctions lawfully imposed against the applicant.

8 (5) Evidence, if any, of rehabilitation submitted by the applicant.

9

10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(September 9, 2008 Criminal Conviction for DUI on December 1, 2007)**

12 13. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
13 of the Code in that she was convicted of a crime that is substantially related to the qualifications,
14 duties, and functions of a registered nurse. The circumstances are as follows:

15 a. On or about September 9, 2008, in a criminal proceeding entitled *People of*
16 *the State of California v. Allison Melissa Schuessler*, in Orange County Superior Court, case
17 number 07HM09608, Respondent was convicted on her plea of guilty to violating Vehicle Code
18 section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 or more,
19 a misdemeanor. Respondent admitted and the court found true the enhancement, pursuant to
20 Vehicle Code section 23578, that Respondent's BAC was .15% or more. An additional count of
21 violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol, was
22 dismissed pursuant to a plea agreement.

23 b. As a result of the conviction, on or about September 9, 2008, Respondent
24 was sentenced to three years informal probation, and ordered to complete a six-month Level 2
25 First Offender Alcohol Program, a MADD Victim's Impact Panel, and pay fines, fees, and
26 restitution in the amount of \$867.00. On or about December 18, 2008, May 1, 2009, and August
27 10, 2009, Respondent's probation was revoked for various violations, but was subsequently
28 reinstated.

c. The facts that led to the conviction are that in or about the early morning hour
of December 1, 2007, patrol officers with the Costa Mesa Police Department observed a vehicle

1 parked with its engine running and no headlights. As they approached, they saw a large group of
2 people fighting in the street. Officers determined that Respondent was the owner of the vehicle.
3 She told the officers that she was driving and someone threw something at her vehicle; she got
4 out to check and started fighting with several of the individuals who were walking down the
5 sidewalk. The officers noted that there was a strong odor of an alcoholic beverage emitting from
6 Respondent, her speech was slurred, her eyes were red and watery, and she was unsteady on her
7 feet. Respondent submitted to a series of field sobriety tests which she was unable to perform as
8 explained and demonstrated. Based on Respondent's objective symptoms of intoxication, her
9 performance on the field sobriety tests, and witnesses who identified Respondent as the driver of
10 the vehicle, she was arrested for driving under the influence of alcohol. At booking, Respondent
11 provided two breath samples that were analyzed with a BAC of .19 and .20 percent, respectively.

12 **SECOND CAUSE FOR DENIAL OF APPLICATION**

13 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

14 14. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
15 of the Code in that on or about December 1, 2007, Respondent used alcoholic beverages to an
16 extent or in a manner that was dangerous and injurious to herself and the public when she
17 operated a motor vehicle while under the influence of alcohol, as detailed in paragraph 13, above,
18 which subjects a licensed registered nurse to discipline under section 2762, subdivision (b) of the
19 Code.

20 **THIRD CAUSE FOR DENIAL OF APPLICATION**

21 **(Unprofessional Conduct - Conviction of Alcohol-Related Offenses)**

22 15. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
23 of the Code in that on or about September 9, 2008, Respondent was convicted of a criminal
24 offense involving the consumption of alcohol as detailed in paragraph 13, above, which subjects a
25 licensed registered nurse to discipline under section 2762, subdivision (c) of the Code.

26 ///

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Allison Melissa Schuessler for a Registered Nurse License;
2. Taking such other and further action as deemed necessary and proper.

DATED: October 3, 2011 for Marie Ben
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2011801025